IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(Crl.).No. 135 of 2007(S)

PETITIONER: (PARTY IN PERSON)

SIYAM P.ASHRAF, AGED 24 YEARS,
S/O.P.K.ASHRAF, PUTHEN VEETTIL HOUSE,
THENPUZHA EAST, MUNDAKKAYAM, KOTTAYAM
DISTRICT.

BY ADV. SIYAM P.ASHRAF(PARTY IN PERSON)

RESPONDENTS:
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1. BALAJI, BROTHER-IN-LAW OF DILIP BHAVAN
PAWAR, RAJASREE BHAVAN, OPP.GALAXY THEATRE,
K.K.ROAD, MUNDAKKAYAM.

2. DILIP BHAIRU PAWAR,
RAJASREE BHAVAN, OPP.GALAXY THEATRE,
K.K.ROAD, MUNDAKKAYAM.

3. THE SUB INSPECTOR OF POLICE,
MUNDAKKAYAM.

4. THE DISTRICT SUPERINTENDENT OF POLICE,
KOTTAYAM.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF REGISTERED MARRIAGE AGREEMENT NO.40/2006 DATED 18.1.2006.

EXHIBIT P1(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2: COPY OF CBSE CERTIICATE SHOWING THE AGE.

EXHIBIT P3: COPYOF FIR IN CRIME NO.26/06.

EXHIBIT P4: COPY OF AFFIDAVIT OF RAJASREE BEFORE THE JFCM-I, COURT, KANJIRAPPILLY.

EXHIBIT P4(a): COPY OF DEPOSITION OF RAJASREE BEFORE THE JFCM-II, KANJIRAPPILLY.

EXHIBIT P5: COPYOF NOTICE DATED 4.2.2006 ISSUED BY JFCM-I COURT, KANJIRAPPILLY.

EXHIBIT P6: PHOTOGRAPHS SHOWING THE MARRIAGE CEREMONY.

EXHIBIT P7: COPY OF CERTIFICATE OF MARRIAGE DATED 26.2.2006.

EXHIBIT P8: COPY OF JUDGMENT OF THIS HONOURABLE COURT IN WPC.4514/2006 DATED 22.2.2006.

EXHIBIT P9: COPY OF DEPOSITION MADE BY RAJASREE BEOFRE THE JFCM-I COURT, KANJIRAPPILLY.

EXHIBIT P10: COPY OF ORDER DATED 20.3.2006, 23.3.06, 28.3.06, 29.3.06 OF THE JFCM-I COURT, KANJIRAPPILLY.

EXHIBIT P11: COPY OF JUDGMENT IN WP(CRL).139/06.

EXHIBIT P12: COPY OF CMP.7265/06 DATED 22.12.2006 FILED BEFORE JFCM-I COURT, KANJIRAPPILLY.

EXHIBIT P13: COPY OF ORDER DATED 5.2.2007 IN WP(CRL).10/2007.

EXHIBIT P14: COPY OF JUDGMENT DATED 26.2.2007 IN WP(CRL).10/2007.

EXHIBIT P15: COPY OF COUNTER AFFIDAVIT IN CMP.6483/06 DATED 16.12.2006 FILED BEFORE JFCM-I COURT, KANIRAPPILLY.

EXHIBIT P16: COPY OF COUTNER AFFIDAVIT IN CMP.7265/06 DATED 28.12.2006 FILED BEFORE JFCM-I COURT, KANJIRAPPILLY.

EXHIBIT P17: COPY OF ORDER DATED 21.3.2007 IN RP.NO.313/2007.

/TRUE COPY/

PA TO JUDGE

P.R.RAMAN & K.HEMA, JJ.

W.P.(Crl).NO.135 OF 2007

Dated this the 21st day of June, 2007

JUDGMENT

Raman, J.

The petitioner, alleging himself to be the husband of Rajasree, the alleged detenu, complains to this court that Rajasree is under illegal custody of respondents 1 and 2 against her will and pleasure. On an earlier occasion, on a similar complaint being made in W.P (Crl).No10 of 2007, this court considered the question as to whether the alleged detenu is under illegal custody and based on the statement obtained by the Kerala Police, this Court dismissed the matter without prejudice to the right of the petitioner to approach the Family Court. Thereafter, a review petition was filed which was also dismissed by this Court. Thereafter, this Writ Petition was filed alleging that subsequently he received telephone call from the alleged detenu, who informed him that the first respondent and her brother is torturing her mentally and physically. It is averred that her life is in danger. Since there was no occasion for this Court to directly interact with the alleged detenu in the earlier proceedings, we thought it desirable to have an interaction directly with the

alleged detenu, for which purpose the alleged detenu was required to be produced. She appeared today before us. On interaction with her, she submitted that she is married to another person and she is having a child aged 3 months and she wants to go back to Maharashtra. She is a free person and not under any illegal custody.

In the above facts and circumstances, we find no merit in the Writ Petition. The Writ Petition is dismissed.

The Additional Director General of Prosecution submits that necessary protection will be afforded to the onward journey of the alleged detenu. The same is recorded.

P.R.RAMAN, JUDGE

K.HEMA, JUDGE

vgs.